

**STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
BOARD MEETING**

MINUTES

October 5-6, 2004

**(KEY: MSC = MOTION MADE, SECOND, CARRIED)
(MSF = MOTION MADE, SECOND, FAILED)**

THE SPECIAL MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 8:37AM, TUESDAY, OCTOBER 5, 2004, IN THE BOARD ROOM, 1365 NORTH ORCHARD, ROOM 172, BOISE, IDAHO. CHAIRMAN WAYNE HUNSUCKER, VICE CHAIRMAN SCOTT FARR AND MEMBERS BILL BERNT, AND RAY LYON WERE IN ATTENDANCE. BOARD MEMBER WILL JUDGE WAS UNABLE TO ATTEND THE MEETING DUE SCHEDULE CONFLICTS AND HE WAS EXCUSED. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD, BOARD COUNCIL STEVE SCANLIN AND SECRETARY KIM WALLETT.

Review of Agenda: Director Howard reviewed the agenda with the Board. He expressed that this was a special meeting and stated that staff reports, financial reports, and other standard administrative matters would not be presented. Board member Lyon stated that he would need to be absent from the meeting at 11:00 on Wednesday. Grant Simonds, IOGA, made a request that the Non-use review and Board Rules review be reversed due to a schedule conflict and a desire to be in attendance for the Rules discussion. The Board agreed to the change.

ALLOCATION POLICY REVIEW: Also, present for this discussion were Leanne Reincke, Technical Records Specialist; Grant Simonds, IOGA Executive Director; and Darl Allred, Allred's Adventures. Ms. Reincke presented copies of the comments that she had received from the industry, in response to the proposed changes to the recalculation procedure that had been provided to the industry for review and comment following the August Board meeting. She stated that those comments in some cases did not apply and that will be cleared up in a response to them. Mr. Simonds stated that he felt a Q&A section for the new policy would be helpful for the IOGA Winter Meeting. Director Howard asked Mr. Simonds if he would put some questions together that might be asked by the industry, and he indicated that IOGLB would provide the answers, which would be made available to the industry.

The Board discussed a limit being placed on the number of vouchers that can be requested from the surplus when the amount available reaches less than 50. A summary of those changes included in the policy approved by the Board during this meeting is attached to these minutes.

MSC (MOTION BY FARR, SECONDED BY LYON - UNANIMOUS) TO ADOPT THE PROCEDURE OF DISTRIBUTION FOR TAGS FOR CAPPED ZONES ALLOCATION POLICY REVISAL WITH THE CHANGES DISCUSSED AND EXPRESSED ABOVE.

OUTFITTER CONTROLLED TAG POLICY REVIEW: Director Howard reminded the Board that this matter was brought to the Board's attention due to a continuing problem with some outfitters pre-booking these lottery tags hunts with hunters of their choosing and avoiding

taking the lottery tags winners. He also pointed out that also the applicants often did not realize that their application required that they hunt with a specific outfitter in a specific area and that this had added to the confusion. The Board directed Mr. Howard to meet with IDFG and discuss how they would like to move forward in resolving the matter. The Board expressed that they would prefer to keep the matter in a lottery format but is willing to discuss other possibilities. It would also be desirable by the Board that Outfitters submit some form of pending contract with a lottery tag applicant prior to the name of a hunter being submitted for the lottery. The outfitter must submit the application for the hunter or sign the application for the hunter to submit himself.

Due to the situation that occurred with outfitter controlled hunts #1092 and 1093 which was discussed extensively during the August, 2004 Board meeting the Board stated that the matter of unethical conduct will be appropriate as it applies to the use of the outfitter controlled tags in the future. Outfitters who intentionally circumvent the lottery system will be held accountable.

Board member Lyon provided an overview of the recalculation of controlled tags involved with hunts #1092 and 1093 in response to the Board's request during their August meeting. He stated that the calculation of those deer tags in unit 40 was initially correct but that with Joe Burch Outfitters indicating that he would vacate his outfitter license for 2005 that three tags would be provided to Bruce Connelly Whiskey Mountain Outfitters; and two tags would be provided to Paul Meholchick, Juniper Mountain Outfitters. He said that the deer tags in unit 42 had been done incorrectly due to credit given to Burch for one time controlled hunts and that the tag should be assigned to Juniper Mountain Outfitters. He said that with Burch vacating his license, the area for elk would be open and with the concurrence of the BLM it should be licensed to Juniper Mountain Outfitters. The Board asked Director Howard to prepare letters to these outfitters explaining this and they asked him to clarify to Mr. Connelly that these tags will be made available to him under the condition that no additional problem surface. The Board asked the Director to make it clear to Mr. Connelly that he strictly focuses on taking lottery tag holders on these hunts in the future. The Board also established criteria with respect to Board rule 25.01.01.053 - Controlled Hunts, Outside the Outfitters Operating Area for Director Howard to follow when an existing outfitter objects to a one-time controlled hunt in the operating area or when the existing outfitter is unavailable for contact. A copy of these criteria is attached. It is the Board's intention for them to go into effect immediately procedurally and for them to be promulgated to rule next year.

MSC (MOTION BY FARR, SECONDED BY BERNT - UNANIMOUS) TO APPROVE CRITERIA RECOMMENDATIONS FOR REVIEW OF ONE-TIME HUNTS AS PRESENTED DURING DISCUSSION.

Recessed for lunch @ 12:17 PM and reconvened at 1:35 PM with Chairman Wayne Hunsucker, Vice Chairman Scott Farr, and members Bill Bernt and Ray Lyon present. Also present were Executive Director Jake Howard, Board Council Steve Scanlin, Enforcement Chief BJ Snooks, and Secretary Kim Walleit.

REVIEW OF RULES – DIRECTOR HOWARD: Also, present for this discussion was Grant Simonds, IOGA Executive Director. The Board discussed the use of incidental as it pertained to outfitted activities and stated that they had determined last year that incidental would not be used on new licenses issued and directed the staff to review current operating area descriptions to

remove this terminology. Director Howard explained that this was happening and that the use of incidental was primarily related to fishing, chucker and forest grouse hunting. He said that removing incidental had resource implications and that it would be addressed on a case-by-case basis particularly during sales and relinquishments. He said it most often it is not clear in an outfitters' area description what major activity an incidental activity was incidental to. The Director said that the fishing inventory being done was taking incidental into consideration as areas are analyzed. He said that now, use restrictions on licenses that are being issued are being specially addressed in area descriptions and if an activity is going to be secondary to a major activity it is clear what the implications are.

The Board asked the Director to see if clarification can be made in Board rule 25.01.01.009 – Outfitter License Codes and Guide Activities Codes subject to change 4BG “Blue” Grouse to 4FG “Forest Grouse” and 4CH from “Chukar, Grey Partridge and Hungarian Partridge” to “Chukar, and Hungarian Partridge.”

Board also discussed the rule clarifying the number of boats on the Clearwater River. Director Howard indicated that the change was a clarification of the historical evolution of the “joint” float and power boat licenses. He was asked to contact an outfitter who had recently purchased an additional float license to determine if they were licensed as that person intended. They told Director Howard if that rule change is inappropriate it should be removed from the rules package. Further review and approval of the Rules will be held at the December Board meeting.

NON-USE REVIEW – BOATING: Director Howard explained to the Board that earlier they had directed him to prepare non use reports for the Board review, Director Howard presented information on outfitters that are currently showing non-use or nominal use in boating activities statewide. This information encompassed 2001 through 2003 use information. After reviewing the information the Board directed Mr. Howard to write a letter to all outfitters on the non-use list requesting an explanation of non-use. If they are unable to provide sufficient explanation in writing they will be asked to appear before the Board at a subsequent meeting. The letter should be sent to all outfitters showing zero use for all three years and those that show zero use for 2002 and 2003. Other outfitters showing nominal use will be contacted at a later date.

Director Howard also stated that use information was being compiled for hunting and recreation activities. He told the Board that due to an issue with office database, the information was reporting incorrectly at this time and he hopes to provide the information in December or February.

MCCALL LAKES AREA ADJUSTMENT – FINAL MATTERS: Director Howard presented a summary showing operating area adjustments and explaining how this overall matter had been addressed. Director Howard has worked with Gary Elliot, USFS and Dale Allen, IDFG to develop this resolution. He said that Mr. Elliot had discussed the reassignment of lakes with each party involved and that he understood that all were in agreement. The Board asked about the wording of “single barbless hooks” included in the requirements for each area. They said that in this regard outfitted clients should not be restricted beyond the normal restrictions imposed on the general public. Director Howard said he would confirm the wording based on IDFG regulations and with Mr. Elliot. The Director was also asked to clarify if overnight use would be allowed. Director Howard told the Board that he understood that Warren Outfitters intended sale

to Jack Kummet and that Cutler Umbach, High Llama Outfitters is selling his business to Idaho Angler. The Director said that a clarified summary would be attached to the Board minutes.

MSC (MOTION BY BERNT, SECONDED BY FARR - UNANIMOUS) TO APPROVE THE PRESENTED INFORMATION WITH THE CLARIFICATIONS THAT WERE POINTED OUT DURING DISCUSSION.

Meeting recessed at 5:18 PM and reconvened at 8:37 AM, Wednesday, October 6, 2004, with Chairman Wayne Hunsucker, Vice Chairman Scott Farr, and members Bill Bernt, and Ray Lyon present. Also present were Executive Director Jake Howard, Board Council Steve Scanlin, Technical Records Specialist, Leanne Reincke, and Secretary Kim Walleit.

REVIEW OF DON HABEL, SALMON MOUNTAIN OUTFITTERS: Also present for this discussion was Gene Hardin, West Fork Ranger District, USFS. Director Howard, Board Council Scanlin, and Gene Hardin presented the Board with information with regard to this matter. The Board was informed that Mr. Habel had previously sold this business to John Thomas and financed the sale himself. Mr. Thomas appeared to have defaulted on that agreement and his license for Salmon Mountain Outfitters has been relinquished. Mr. Hardin pointed out that a number of issues had surfaced with Mr. Thomas improperly selling shares into his outfitting business and improperly transferring ownership of it. Director Howard confirmed this and said that several complaints had been filed against Mr. Thomas and that he understood two civil complaints had also been filed. He said that because the license had been relinquished he did not intend to pursue this matter with Mr. Thomas. Director Howard indicated that this was the second sale that Mr. Habel had financed and typically the Board has not allowed a second sale to be financed by the outfitter let alone a third. He pointed out however, that Mr. Habel currently has an interested buyer that will purchase the business in full through a cash buy out with no financing through Mr. Habel. He said that he and Mr. Hardin believe that it would be in the public's best interest to allow Mr. Habel to resell his business and to consider licensing his buyer in this area for two reason's: first, the Board and the USFS would have to go through a lengthy application process that would be costly in staff time and dollars and which would not provide outfitted services in this area any time soon. Secondly, in all fairness to Mr. Habel, they did not believe it is in the public's best interest for a former outfitter and businessman to suffer a substantial financial loss due to the default of failed business sale if it can be prevented. He said that Mr. Habel had experienced a financial loss and would break even with the cash buy out. Director Howard said however, that if this sale fails his recommendation would be that it will be in the public's and the industry's best interest that that the area be vacated and made available for open application via a prospectus. The Board agreed. The Board expressed their concern that a foreclosure had not been completed by Mr. Habel. Mr. Scanlin said that Mr. Habel had filed a complaint for breach of contract against the parties and that his attorney later provided a copy of that complaint to the Board and he stated that would suffice in consideration of the area already being vacated. With that, the Board took favorable action. Director Howard also indicated that there are 18 allocated tags in the Selway Zone connected to this business that would revert to the buyer.

MSC (MOTION BY FARR, SECONDED BY BERNT - UNANIMOUS) PENDING RECEIPT OF A COPY OF THE LEGAL ACTION, THE BOARD MOVES TO APPROVE THE REVERSION OF THE LICENSE TO DON HABEL AND ALLOW HIM TO PROCEED WITH THE RESALE OF THE BUSINESS. THIS WILL BE UNDER THE CONDITIONS SET

FORTH IN LETTERS DATED SEPT 10, 2004 FROM DIRECTOR HOWARD AND THE RESPONSE FROM CORY GANGLE DATED SEPT 23, 2004.

DENIAL HEARING – GARRY MERRITT: Also present for this matter was BJ Snooks, Enforcement Chief. Mr. Snooks contacted Mr. Dane Cook, IDFG Conservation Officer via telephone conference for testimony in this matter. Mr. Merritt appeared before the Board with regard to Fish & Game violations received in December of 2000. The first violation was for “failure to retrieve” and the second was for “failure to produce game animal for inspection – elk”. He also appeared due to his failure to report those violations on the guide license application form. Mr. Merritt explained how the situation occurred and that he did not feel that he was at fault since he did not shoot the elk. He also stated that he did not understand that an infraction was the same as a violation. He explained that this misunderstanding was why he did not disclose the information on the application.

Executive Session: In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY LYON, SECOND BY FARR – HUNSUCKER, FARR, LYON, BERNT, - YEA) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 10:24 AM TO DISCUSS LITIGATION MATTERS. MSC (MOTION BY FARR, SECOND BY LYON – HUNSUCKER, FARR, LYON, BERNT - YEA) AT 10:51 AM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISIONS MADE.

MSC (MOTION BY LYON, SECONDED BY FARR – HUNSUCKER, FARR, LYON – YEA; BERNT - NO) TO DENY THE APPLICATION OF MR. MERRITT FOR A GUIDE LICENSE FOR 2004. MR. MERRITT WILL BE SENT A LETTER EXPLAINING THAT HE MUST BE MORE FORTHRIGHT WHEN DEALING WITH THE BOARD AND OTHER LEGAL AUTHORITIES.

Board member Lyon excused himself at 11:00 AM for a personal matter.

With no further business to come before the Board, the meeting was adjourned at 1:15 PM, October 6, 2004.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, EXECUTIVE DIRECTOR